

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JEREMY HANNAH AND KIP GREEN)	CASE NO. 2:15-cv-933
)	
on behalf of themselves)	JUDGE MICHAEL H. WATSON
and all others similarly situated,)	
)	<u>ORDER OF DISMISSAL AND</u>
Plaintiffs,)	<u>APPROVING SETTLEMENT</u>
)	
vs.)	
)	
H.A.D., INC.)	
)	
Defendant.)	

This matter is before the Court on the Parties' Joint Motion for Approval of Settlement and Stipulation of Dismissal With Prejudice ("Joint Motion") pursuant to § 16(b) of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 216(b). The Joint Motion asks the Court to approve, as fair and reasonable, the proposed Settlement reached by the Parties and memorialized in the Joint Stipulation of Settlement and Release ("Settlement" or "Agreement") attached to the Joint Motion as Exhibit A.

Having reviewed the Joint Motion, the Agreement and its Exhibits, the Declarations of Anthony J. Lazzaro and Hans A. Nilges, and the pleadings and papers on file in this Action, and for good cause established therein, the Court enters this Stipulated Order of Dismissal and Approving Settlement, the Agreement and its Exhibits, the proposed Notice, the proposed Consent to Opt Into Lawsuit, Release and Dismiss Claims Form ("Consent Form"), the proposed allocation and calculation of Individual Payments, the proposed Service Award to the Representative Plaintiff, and the proposed attorneys' fees and expense reimbursements to Plaintiffs' Counsel, as follows:

1. The captioned Action asserts wage-and-hour claims under the FLSA, 29 U.S.C. §§ 201-219, on behalf of non-exempt employees of Defendant H.A.D., Inc.

2. On March 14, 2015, Representative Plaintiff Jeremy Hannah filed this Action as a collective action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201-219, and alleged that Defendant failed to pay employees overtime compensation for the hours they worked over forty (40) each workweek, in violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 207 (the “Action”). On March 28, 2015, Representative Plaintiffs Jeremy Hannah and Kip Green filed an Amended Class and Collective Action Complaint. On May 4, 2015, Defendant filed an answer to the Amended Complaint disputing the material allegations both as to fact and law and denying any liability to Representative Plaintiffs or any other employees, and asserting several affirmative defenses.

3. Between September 2015 and January 2016 the Parties engaged in an informal yet comprehensive exchange of information regarding Plaintiffs’ claims and Defendant’s defenses to such claims. This included the calculations of Plaintiffs’, the Existing Opt-In Party Plaintiffs’, and the Eligible Settlement Participants’ alleged overtime damages.

4. On January 18, 2016, the Parties attended a mediation with Jerry Weiss of Mediation Inc. in Cleveland, Ohio and reached an agreement to settle the Action on the terms set forth in the Agreement attached to the Parties’ Joint Motion as Exhibit A. The proposed Settlement eliminates the time, cost, and uncertainty of further litigation.

5. The Settlement will cover Representative Plaintiffs and the 25 Existing Opt-In Party Plaintiffs identified in Appendix 1 of the Settlement, and all of the Eligible Settlement Participants identified in Appendix 2 of the Settlement who elect to participate in the Settlement by signing and returning Consent Forms (“Settlement Class” or “Class Members”)

6. To receive an Individual Payment, the Eligible Settlement Participants must sign and return the Consent Form attached as Exhibit B to the Parties' Joint Motion for Approval of Settlement. The Eligible Settlement Participants may return Consent Forms to Plaintiffs' Counsel within thirty (30) days after the mailing of the notice. The Consent Forms must be signed electronically (eSigned) via PDF, postmarked, faxed or emailed to Plaintiffs' Counsel within the thirty (30) day period to be timely.

7. The Settlement Agreement provides that, in consideration of the Total Eligible Settlement Payment, the claims of the Representative Plaintiffs, Existing Opt-In Party Plaintiffs, and Eligible Settlement Participants who elect to participate in the Settlement by signing and returning Consent Forms are to be dismissed with prejudice.

8. The Court finds that the proposed Settlement is fair and reasonable and satisfies the standard for approval under § 16(b) of the FLSA, 29 U.S.C. § 216(b). The Court finds that the Settlement resulted from arms-length negotiations between experienced counsel after substantial investigation. Plaintiffs' Counsel has informed the Court that they believe the Settlement is fair, reasonable, and adequate and in the best interests of the Representative Plaintiffs, Existing Opt-In Party Plaintiffs, and Eligible Settlement Participants. The Court has considered all relevant factors, including the risk, complexity, expense, and likely duration of the litigation; the extent of investigation; the amount offered in the Settlement; and the experience and views of counsel for the Parties.

9. The Court approves the Agreement and its Exhibits, including the proposed Notice and the proposed Consent Form, and orders that the Settlement be implemented according to the terms and conditions of the Agreement and as directed herein. The Court grants final approval of the Settlement as to the Representative Plaintiffs, Existing Opt-In Plaintiffs, and all

Eligible Settlement Participants who elect to participate in the Settlement by signing and returning a Consent Form.

10. The Court finds that the proposed allocation and calculation of the Individual Payments to Class Members are fair and reasonable. The Court approves the method of calculation and proposed distribution of the Individual Payments. The Parties have submitted with the Joint Stipulation of Settlement and Release two Appendices providing the names of the Existing Opt-In Party Plaintiffs and the Eligible Settlement Participants, and the Individual Payments for the Class Members. The Court approves the amounts and orders that such payments be distributed in the manner, and subject to the terms and conditions, set forth in the Agreement.

11. The Court approves the Class Representative Payments to the Representative Plaintiffs in recognition of their service in the Action, and orders that such payment be made in the manner, and subject to the terms and conditions, set forth in the Agreement.

12. The Court approves the payment of attorneys' fees and expense reimbursements to Plaintiffs' Counsel as provided in the Agreement, and orders that such payments be distributed in the manner, and subject to the terms and conditions, set forth in the Settlement Agreement.

13. The Court dismisses the claims of the Representative Plaintiffs, Existing Opt-In Party Plaintiffs, and Eligible Settlement Participants who sign and return Consent Forms with prejudice, and enters final judgment dismissing them from the Action. The Court finds there is no just reason for delay and directs the Clerk of the Court to enter this Stipulated Order of Dismissal and Approving Settlement immediately.

14. The Court retains jurisdiction over the Action to enforce the terms of the Settlement, including the notice administration, addition of Class Members and distribution process.

SO ORDERED:

Date:

March 1, 2016

Michael H. Watson

Michael H. Watson
United States District Judge

SO STIPULATED:

/s/ Hans A. Nilges

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